

304.2-260 Examination reports -- Distribution -- Hearing -- Order of executive director -- Public inspection.

- (1) The executive director shall deliver a copy of the examination report to the person examined, together with a notice affording such person twenty (20) days or such additional reasonable period as the executive director for good cause may allow within which to review the report and recommend changes therein.
- (2) If so requested by the person examined, within the period allowed under subsection (1) of this section, or if deemed advisable by the executive director without such request, the executive director shall hold a hearing relative to the report and shall not file the report in the office for public inspection until after such hearing and his order thereon, except that the executive director may furnish a copy of the report to the Governor or Attorney General of the state pending final decision thereon.
- (3) If no such hearing has been requested or held, the executive director shall fully consider and review the report, together with any written submissions or rebuttals and any relevant portions of the examiner's workpapers and enter an order within sixty (60) days of the end of the period allowed under subsection (1) of this section. The order of the executive director shall:
 - (a) Adopt the examination report as filed or with modifications or corrections. If the examination report reveals that the person is operating in violation of or has violated any law, administrative regulation, or prior order of the executive director, the executive director may order the person to take such action to cure the violations and impose such penalties as the executive director considers necessary and appropriate; or
 - (b) Reject the examination report with directions to the examiners to reopen the examination for purposes of obtaining additional data, documentation, or information, and refiling as provided in KRS 304.2-250; or
 - (c) Call for a hearing for purposes of obtaining additional documentation, data, information, and testimony.
- (4) Upon entry of the executive director's order, the examination report, with such modifications, if any, thereof as the executive director deems proper, shall be filed in the office for public inspection, except that the executive director may withhold from public inspection any examination report for so long as he deems such withholding to be necessary for the protection of the person examined against unwarranted injury or to be in the public interest and except that the executive director shall withhold from public inspection any examination report of a domestic insurer as provided in KRS 304.2-270.
- (5) The executive director shall forward to the person examined a copy of the examination report as filed for public inspection, together with the order of the executive director.
- (6) If the report concerns the examination of a domestic insurer, a copy of the report, when filed for public inspection, or if withheld from public inspection under subsection (4) of this section, together with the order of the executive director, shall be presented by the insurer's chief executive officer to the insurer's board of

directors or similar governing body at a meeting thereof which shall be held within ninety (90) days next following receipt of the report and order. A copy of the report and order shall also be furnished by the secretary of the insurer, if incorporated, or by the attorney-in-fact if a reciprocal insurer, or Lloyd's plan insurer, to each member of the insurer's board of directors or board of governors, if a reciprocal insurer, or Lloyd's plan insurer, and the certificate of the secretary or attorney-in-fact, which shall be filed promptly with the office, that a copy of the examination report and order, has been so furnished shall be deemed to constitute knowledge of the contents of the report and order by each such member.

- (7) The report when so filed in the office shall be admissible in evidence in any action or proceeding brought by the executive director against the person examined, or against its officers, employees, or agents. In any such action or proceeding, the executive director or his examiners may, however, at any time testify and offer proper evidence as to information secured or matters discovered during the course of an examination, whether or not a written report of the examination has been either made, furnished, or filed in the office.

Effective: July 15, 1994

History: Amended 1994 Ky. Acts ch. 92, sec. 1, effective July 15, 1994. -- Created 1970 Ky. Acts ch. 301, subtit. 2, sec. 26, effective June 18, 1970.

Legislative Research Commission Note (6/20/2005). 2005 Ky. Acts chs. 11, 85, 95, 97, 98, 99, 123, and 181 instruct the Reviser of Statutes to correct statutory references to agencies and officers whose names have been changed in 2005 legislation confirming the reorganization of the executive branch. Such a correction has been made in this section.